

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

KENNETH SHERRIER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.
	)	
VIKING COLLECTION SERVICE, INC.,	)	
	)	
Defendant.	)	

**PLAINTIFF’S COMPLAINT AND DEMAND FOR JURY TRIAL**

KENNETH SHERRIER (Plaintiff), through his attorneys, KROHN & MOSS, LTD.,  
alleges the following against VIKING COLLECTION SERVICE, INC., (Defendant):

**INTRODUCTION**

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

**JURISDICTION AND VENUE**

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”
4. Defendant conducts business in the state of Illinois, and therefore, personal jurisdiction is established.
5. Venue is proper pursuant to *28 U.S.C. 1391(b)(1)*.
6. Declaratory relief is available pursuant to *28 U.S.C. 2201 and 2202*.

## **PARTIES**

7. Plaintiff is a natural person residing in Lyons, Cook County, Illinois.
8. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)*.
9. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiff.
10. Defendant is a national debt collection company headquartered in Minnesota.
11. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

## **FACTUAL ALLEGATIONS**

12. Defendant constantly and continuously places collection calls to Plaintiff seeking and demanding payment for an alleged debt.
13. Defendant places telephone calls without meaningful disclosure of the caller's identity (see transcribed voicemail messages attached as Exhibit A).
14. Defendant does not disclose that the call is from a debt collector in subsequent communications (see Exhibit A).
15. Defendant did not send Plaintiff a debt-notice letter.

## **COUNT I DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

16. Defendant violated the FDCPA based on the following:
  - a. Defendant violated §1692d(5) of the FDCPA when Defendant caused Plaintiff's telephone to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.

- b. Defendant violated §1692d(6) of the FDCPA by placing telephone calls without meaningful disclosure of the caller's identity.
  - c. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an attempt to collect a debt.
  - d. Defendant violated §1692e(11) of the FDCPA by failing to disclose in subsequent communications that the call was from a debt collector.
  - e. Defendant violated §1692g(a)(1-5) by failing to provide appropriate notice of the debt within 5 days after the initial communication including: (1) the amount of the debt; (2) the name of the creditor to whom the debt is owed; (3) a statement that unless the consumer, within 30 days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector; (4) a statement that if the consumer notifies the debt collector in writing within the 30-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and (5) a statement that, upon the consumer's written request within the 30-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.
17. As a direct and proximate result of one or more or all of the statutory violations above Plaintiff has suffered emotional distress (see Exhibit B).

WHEREFORE, Plaintiff, KENNETH SHERRIER, respectfully requests judgment be entered against Defendant, VIKING COLLECTION SERVICE, INC., for the following:

18. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act,
19. Statutory damages pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
20. Actual damages,
21. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
22. Any other relief that this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,

By: \_\_\_\_\_/s/ Adam J. Krohn\_\_\_\_\_  
[ ] Adam J. Krohn  
Attorneys for Plaintiff  
Krohn & Moss, Ltd.  
120 W. Madison Street  
10<sup>th</sup> Floor  
Chicago, IL 60602

**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, KENNETH SHERRIER, demands a jury trial in this case.

**VERIFICATION OF COMPLAINT AND CERTIFICATION**

STATE OF ILLINOIS

Plaintiff, KENNETH SHERRIER, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, KENNETH SHERRIER, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

6/22/09  
Date

Kenneth A. Sherrier  
KENNETH SHERRIER

**EXHIBIT A**

**KENNETH SHERRIER v. VIKING COLLECTION SERVICE, INC.**

Hey Ken, it is Mike James. It is important I hear back from you, I am at 800-273-4943. I will be in my office today here Sunday until 11.

Hey Ken, it is Mike James. It is important I hear back from you, I am at 800-273-4943. I will be in my office today here Sunday until 11.

Hey Ken, it is Mike James with Viking Services. It is important I get a return call, I am at 1800-273-4943. I am going to be in my office late tonight until 8 o'clock.

**EXHIBIT B**



I have suffered from the following due to, or made worse by, the actions of the Defendant's debt collection activities:

1. Sleeplessness
2. Fear of answering the telephone
3. Nervousness
4. Fear of answering the door
5. Embarrassment when speaking with family or friends
6. Depressions (sad, anxious, or "empty" moods)
7. Chest pains
8. Feelings of hopelessness, pessimism
9. Feelings of guilt, worthlessness, helplessness
10. Appetite and/or weight loss or overeating and weight gain
11. Thoughts of death, suicide or suicide attempts
12. Restlessness or irritability
13. Headache, nausea, chronic pain or fatigue
14. Negative impact on my job
15. Negative impact on my relationships

<u>YES</u>	<u>NO</u>
<u>YES</u>	<u>NO</u>
<u>YES</u>	<u>NO</u>
<u>YES</u>	<u>NO</u>
<u>YES</u>	<u>NO</u>
<u>YES</u>	<u>NO</u>
<u>YES</u>	<u>NO</u>
<u>YES</u>	<u>NO</u>
<u>YES</u>	<u>NO</u>
<u>YES</u>	<u>NO</u>
<u>YES</u>	<u>NO</u>
<u>YES</u>	<u>NO</u>
<u>YES</u>	<u>NO</u>
<u>YES</u>	<u>NO</u>
<u>YES</u>	<u>NO</u>

*I Don't  
Talk*

Other physical or emotional symptoms you believe are associated with abusive debt collection activities:

*Mike James tries to act like  
He is on PAL - He is not*

Pursuant to 28 U.S.C. § 1746(2), I hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 6/22/09

*Kenneth A. Shertier*  
Signed Name

*Kenneth A. Shertier*  
Printed Name